

1 The removal papers indicate that the state court clerk entered default against Defendants
2 on the original Complaint the day before Plaintiff filed the FAC. (*See* Default, May 3, 2012, ECF
3 No. 1-6; Default, May 3, 2012, ECF No. 1-7). Plaintiff nullified the original Complaint and the
4 defaults entered against Defendants thereupon when he filed the FAC. *See Ferdik v. Bonzelet*,
5 963 F.2d 1258, 1262 (9th Cir. 1992) (citing *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967)). The
6 Court will not grant summary judgment on the FAC, which has apparently not been served.

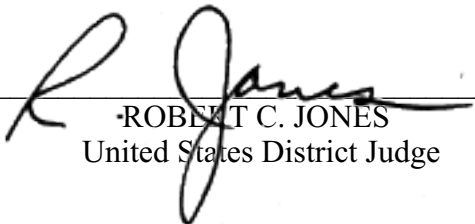
7 **CONCLUSION**

8 IT IS HEREBY ORDERED that the Motion for Summary Judgment (ECF No. 6) is
9 DENIED.

10 IT IS FURTHER ORDERED that the case is REMANDED, and the Clerk shall close the
11 case.

12 IT IS SO ORDERED.

13 Dated this 19th day of December, 2012.

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16 ROBERT C. JONES
17 United States District Judge
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